

MONTANA LEGISLATIVE HISTORY

Chapter 388 19 93

Bill H _____ S 78 Original bill & history ✓ c

H. Committee on Judiciary

Hearing Date(s) 2-4 ✓ c

3-3 ✓ c

3-26 ✓ c

_____ c

Date Out _____ c

S. Committee on Highways & Trans

Hearing Date(s) 1-7 ✓ c

_____ c

- Judiciary c

1-19 ✓ c

1-25 ✓

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

SB 77 INTRODUCED BY SWYSGOOD
CONTINUE THE JOINT COMMITTEE ON POSTSECONDARY EDUCATION
POLICY AND BUDGET
BY REQUEST OF JOINT COMMITTEE ON POSTSECONDARY EDUCATION
POLICY AND BUDGET

12/29	INTRODUCED		
1/02	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/04	FIRST READING		
1/04	FISCAL NOTE REQUESTED		
1/11	HEARING		
1/11	FISCAL NOTE RECEIVED		
1/11	FISCAL NOTE PRINTED		
1/12	COMMITTEE REPORT—BILL PASSED		
1/13	2ND READING PASSED	37	10
1/14	3RD READING PASSED	38	11
	TRANSMITTED TO HOUSE		
1/15	FIRST READING		
1/15	REFERRED TO APPROPRIATIONS		
1/26	HEARING		
3/29	HEARING		
3/30	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/31	2ND READING CONCURRED AS AMENDED	89	9
4/01	3RD READING CONCURRED	83	15
	RETURNED TO SENATE WITH AMENDMENTS		
4/03	2ND READING AMENDMENTS CONCURRED	45	2
4/05	3RD READING AMENDMENTS CONCURRED	50	0
4/08	SIGNED BY PRESIDENT		
4/13	SIGNED BY SPEAKER		
4/14	TRANSMITTED TO GOVERNOR		
4/19	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 387		
	EFFECTIVE DATE: 04/19/93		

SB 78 INTRODUCED BY GAGE
ALLOW CITY ATTORNEY TO REPRESENT STATE IN CERTAIN DUI LICENSE
SUSPENSION HEARINGS

12/29	INTRODUCED		
1/02	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/04	FIRST READING		
1/04	FISCAL NOTE REQUESTED		
1/07	HEARING		
1/08	REFERRED TO JUDICIARY		
1/11	FISCAL NOTE RECEIVED		
1/12	FISCAL NOTE PRINTED		
1/19	HEARING		
1/25	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/26	2ND READING PASSED	48	0
1/27	3RD READING PASSED	47	3
	TRANSMITTED TO HOUSE		
1/28	FIRST READING		
1/28	REFERRED TO JUDICIARY		
2/04	HEARING		
3/03	TABLED IN COMMITTEE		
3/27	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/30	2ND READING CONCURRED	93	6
4/01	3RD READING CONCURRED	92	6

	RETURNED TO SENATE WITH AMENDMENTS		
4/03	2ND READING AMENDMENTS CONCURRED	47	0
4/05	3RD READING AMENDMENTS CONCURRED	50	0
4/08	SIGNED BY PRESIDENT		
4/13	SIGNED BY SPEAKER		
4/14	TRANSMITTED TO GOVERNOR		
4/19	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 388		
	EFFECTIVE DATE: 10/01/93		

SB 79 INTRODUCED BY GAGE
NOTIFY EMPLOYEE'S SUPERINTENDENT OF ABUSE INVESTIGATION

12/31	INTRODUCED		
1/02	REFERRED TO STATE ADMINISTRATION		
1/04	FIRST READING		
1/05	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/13	HEARING		
1/25	COMMITTEE REPORT—BILL NOT PASSED		
1/25	ADVERSE COMMITTEE REPORT ADOPTED	39	11

SB 80 INTRODUCED BY KENNEDY
REVISE HEARING AID DISPENSER TESTING AND CONTINUING EDUCATION
REQUIREMENTS

12/31	INTRODUCED		
1/02	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
1/04	FIRST READING		
1/13	HEARING		
1/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/19	2ND READING PASSED	48	1
1/20	3RD READING PASSED	48	0
	TRANSMITTED TO HOUSE		
1/21	FIRST READING		
1/21	REFERRED TO HUMAN SERVICES & AGING		
1/27	HEARING		
2/01	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
2/06	2ND READING CONCURRED	92	3
2/09	3RD READING CONCURRED	98	1
	RETURNED TO SENATE WITH AMENDMENTS		
2/12	2ND READING AMENDMENTS NOT CONCURRED	49	0
3/05	CONFERENCE COMMITTEE APPOINTED		
4/07	CONFERENCE COMMITTEE DISSOLVED		
	HOUSE		
3/12	CONFERENCE COMMITTEE APPOINTED		
4/16	CONFERENCE COMMITTEE DISSOLVED		
	SENATE		
4/15	FREE CONFERENCE COMMITTEE APPOINTED		
	HOUSE		
4/16	FREE CONFERENCE COMMITTEE APPOINTED		
4/21	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/22	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	93	5
4/22	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	94	5
	DIED IN PROCESS		

SENATE BILL NO. 78

INTRODUCED BY GAGE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IN A HEARING REQUESTED BY A PERSON WHOSE DRIVER'S LICENSE HAS BEEN SUSPENDED OR REVOKED FOLLOWING A DUI CHARGE, THE CITY ATTORNEY SHALL REPRESENT THE STATE IF THE INCIDENT LEADING TO THE SUSPENSION OR REVOCATION OCCURRED IN A CITY; AND AMENDING SECTION 61-8-403, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-8-403, MCA, is amended to read:

"61-8-403. Right of appeal to court. The department shall immediately notify in writing any person whose license or privilege to drive has been suspended or revoked, ~~as hereinbefore--authorized--in--writing~~ and such the person shall have the right to may file a petition within 30 days thereafter for a hearing in on the matter in the district court in the county ~~wherein--such where~~ the person resides or in the district court in the county in which this arrest was made. Such The court is hereby vested with jurisdiction and ~~it shall be its duty to~~ set the matter for hearing. upon The court shall give 10 days' written notice of the hearing to the county attorney of the county ~~wherein where~~ the appeal is filed or to the city attorney if the incident leading to

the suspension or revocation occurred in a city, and such the county attorney or city attorney shall represent the state, ~~and thereupon the.~~ The court shall take testimony and examine ~~into~~ the facts of the case, except that the issues ~~shall~~ must be limited to whether a peace officer had reasonable grounds to believe that the person had been driving or was in actual physical control of a vehicle upon ways of this state open to the public, while under the influence of alcohol, drugs, or a combination of the two, whether the person was placed under arrest, and whether such the person refused to submit to the test. The court shall ~~thereupon~~ determine whether the petitioner is entitled to a license or is subject to suspension ~~as--heretofore--provided or revocation.~~"

-End-

SENATE BILLS STATUS SHEET

HIGHWAYS AND TRANSPORTATION COMMITTEE

BILL NUMBER	ENTERED COMMITTEE	CONSIDERED	OUT OF COMMITTEE	<u>DP</u> DO PASS	<u>DNP</u> DO NOT PASS	<u>DPAA</u> DO PASS AS AMENDED	<u>DNPA</u> DO NOT PASS AS AMENDED
SB 55	1/4	REFERRED	JUDIC.				
SB 56	1/4	1/7,12,14	1/14			DPAA	
SB 78	1/4	REFERRED TO JUDICIARY	1/8				
SB 105	1/8	1/21,26,2/2	2/4	DP			
SB 110	1/8	1/14	1/14			DPAA	
SB 133	1/13	1/19	1/19	DP			
SB 135	1/13	1/19	1/19	DP			
SB 185	1/18	1/26	1/26	DP			
SB 198	1/19	1/26,28, 2/2	2/2			DPAA	
SB 219	1/20	1/26, 2/2	2/2				DNPA
SB 255	1/26	2/2,4	2/4	DP			
SB 272	1/28	2/4	2/4			DPAA	
SB 309	2/3	2/9	TABLED				

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By Senator Cecil Weeding, Chair, on January 7, 1993, at 1:03 p.m.

ROLL CALL

Members Present:

Sen. Cecil Weeding, Chair (D)
Sen. Betty Bruski-Maus, Vice Chair (D)
Sen. Francis Koehnke (D)
Sen. Doc Rea (D)
Sen. Spook Stang (D)
Sen. Chuck Swysgood (R)
Sen. Henry McClernan (D)
Sen. Daryl Toews (R)
Sen. Larry Tveit (R)

Members Excused: None.

Members Absent: Sen. John Harp

Staff Present: Dave Bohyer, Legislative Council
Beth Satre, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 56, SB 78
Executive Action: SB 78

HEARING ON SENATE BILL 78

Opening Statement by Sponsor:

Sen. Gage asked the Committee to reassign SB 78 to the Judiciary Committee. Because the intent of this bill is to enable a city attorney to carry a case to District Court, the Judiciary Committee would have more of the necessary expertise with regards to the court system. He noted that both Chairman Weeding and Sen. Yellowtail, Chairman of Judiciary had agreed to this action.

With the permission of the Committee, the Chair dispensed with the normal format and the Committee moved into executive action on SB 78.

EXECUTIVE ACTION ON SENATE BILL 78Motion:

Sen. Rea made the motion to refer SB 78 to the Judiciary Committee.

Vote:

By UNANIMOUS CONSENT SB 78 was ordered referred to the Judiciary Committee.

HEARING ON SENATE BILL 56Opening Statement by Sponsor:

SEN VAUGHN, Senate District 1, Lincoln County, passed out copies of some amendments to SB 56 (Exhibit #1). With this amendment, access to the specialized license plates would not be limited strictly to ambulance personnel. Anybody who is licensed and involved in emergency medical services would be entitled.

SEN. VAUGHN stated SB 56 would create a specialized license plate for firefighters and licensed emergency medical services. SB 56 would allocate part of the license plate fees to the Fire Services Training School. The remaining money would go into special funds at the Department of Health to be distributed to various emergency medical service organizations as seen fit for training and equipment. The changes to the law proposed by SB 56 actually start on pg. 11 sections 12 and 13. A new section "g" would be added allowing specialized plates for active and retired members of local firefighter forces and licensed emergency medical technicians (EMTs). SEN. VAUGHN understood an amendment was being drafted that would strike reference to "retired" members which would allow the plates only for those in the active force.

SEN. VAUGHN was not sure if the firefighters also wanted only their active members to have access to these license plates. The reason for that amendment was primarily the concern about retired EMTs having the plates. Once they retire, those personnel are no longer trained. As a result they are not qualified to provide medical assistance.

SB 56 would provide a public safety function. When, for example, there is a bad wreck, the highway patrol could use the license plates to immediately identify those people who could provide emergency medical assistance. People wanting to buy these plates would have to show that they are a firefighter or a licensed EMT.

In closing SEN. VAUGHN referred to some letters and calls of support she had received. One letter came from the Montana Private Ambulance Operators in Bozeman.

COMMITTEE--SENATE JUDICIARY

Page 8

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

SB0078	GAGE, DEL		CITY ATTY. MAY REPRESENT STATE IN CERTAIN DUI LICENSE SUSPENSION HEARINGS		
	1/08	1/19	PASS AS AMENDED	1-25	1/25
SB0093	BECK, TOM		ELIMINATE HANGING AS FORM OF CAPITAL PUNISHMENT		
	1/07	1/21	DO PASS	1-28	1/27
SB0108	GAGE, DEL		GENERAL, MINOR REVISIONS OF CRIMINAL JUSTICE INFORMATION LAWS		
	1/08	1/22	DO PASS	1-28	1/27
SB0109	DOHERTY, STEVE		EXPAND CRIMINAL CODE DEFINITION OF "SERIOUS BODILY INJURY"		
	1/08	1/22	PASS AS AMENDED	1-28	1/28
SB0117	HALLIGAN, MIKE		FAMILY LAW MEDIATION PROCESS		
	1/09	1/13	PASS AS AMENDED	1-25	1/26
SB0119	HALLIGAN, MIKE		GENERALLY REVISE PROBATE AND ESTATE LAWS		
	1/11	2/01	PASS AS AMENDED	2-16	2/17
SB0124	VAN VALKENBURG, FRED		REVISE FINDERS OF PROPERTY LAW		
	1/11	1/20	DO PASS	1-28	1/27
SB0125	VAN VALKENBURG, FRED		GENERALLY REVISE CRIMINAL PROCEDURE		
	1/11	1/22	PASS AS AMENDED	1-28	1/28
SB0129	DOHERTY, STEVE		ELIMINATE REQUIREMENT TO IDENTIFY DRIVER IN SCHOOL BUS VIOLATION		
	1/12	1/19	DO PASS	1-25	1/25
SB0140	REA, JACK		DEFINING LEGAL RESPONSIBILITY IN EQUINE ACTIVITIES		
	1/13	1/20	PASS AS AMENDED	1-27	1/29
SB0146	WATERMAN, MIGNON		LIMITED LIABILITY COMPANY ACT		
	1/14	1/21	PASS AS AMENDED	1-25	1/25
SB0150	BARTLETT, SUE		CONFORM CHILD SUPPORT ENFORCEMENT LAWS TO FEDERAL LAW		
	1/14	1/26	PASS AS AMENDED	1-29	1/29

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By Sen. Bill Yellowtail, on January 19, 1993, at 10:06 a.m.

ROLL CALL

Members Present:

Sen. Bill Yellowtail, Chair (D)
Sen. Steve Doherty, Vice Chair (D)
Sen. Sue Bartlett (D)
Sen. Chet Blaylock (D)
Sen. Bob Brown (R)
Sen. Bruce Crippen (R)
Sen. Eve Franklin (D)
Sen. Lorents Grosfield (R)
Sen. Mike Halligan (D)
Sen. John Harp (R)
Sen. David Rye (R)
Sen. Tom Towe (D)

Members Excused: Sen. Harp, Sen. Blaylock

Members Absent: NONE

Staff Present: Valencia Lane, Legislative Council
Rebecca Court, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 129
SB 153
SB 55
SB 78

Executive Action: NONE

HEARING ON SB 129

Opening Statement by Sponsor:

Senator Doherty, District 20, said that the title on SB 129 ought to say that whoever violates school bus regulations need to be identified. There have been numerous problems involving vehicles violating school bus regulations and no one can make a positive identification as to the driver of the vehicle. It is in the interest of safety that the driver of the vehicle need not to be

Proponents' Testimony:

Don Baker, told the Committee about two accidents that involved uninsured motorists. Mr. Baker said people are forced to lie about having insurance when they go to the court house to make an application for registration. Mr. Baker feels it is appropriate to address the problem of uninsured motorists and support SB 55.

Opponents' Testimony:

NONE

Questions From Committee Members and Responses:

Senator Grosfield asked Senator Towe about the second offense. Senator Towe said a vehicle would not be forfeited until the third offense, but after the second offense, law enforcement would seize the vehicle when they detect a failure of insurance. When convicted of a third offense, the car that is in storage can be sold. Seizure is the step leading up to forfeiture after a third conviction.

Senator Doherty asked Mr. Bill Fleiner, Montana Peace Officers Association, how law enforcement views the prospect of impounding and caring for the seized vehicles. Mr. Fleiner said it would be labor intensive and expensive.

Closing by Sponsor:

Senator Towe said the situation of having no insurance is terrible. If an uninsured motorist hits you, it will cost you money. SB 55 would be effective in getting the point across to uninsured motorists. Senator Towe suggested merging SB 55 and SB 153.

HEARING ON SB 78**Opening Statement by Sponsor:**

Senator Gage, District 5, said that SB 78 allows a city attorney to represent the state when a person has had their drivers license suspended or revoked in a municipal court situation. The city attorneys were concerned about mandating that the city attorney represent the state. This proposed amendment would make it permissive rather than mandatory.

Proponents' Testimony:

Peter Funk, Montana County Attorneys Association, said SB 78 involves the implied consent process and the appeal hearing. When someone is charged with DUI, a law enforcement officer has the right to ask them to provide a sample of blood, urine, or breath for purposes of determining how much alcohol is in their body. That is called the implied consent scheme. If a person says no, their drivers license would be suspended or revoked. SB

78 gives the person a right to appeal to district court. The intent of SB 78 is to unify the system to clarify that if the DUI arrest occurred in the city, then the city attorney should handle the case. SB 78 was drafted as mandating participation of city attorneys, but we proposed an amendment to make it permissive. (Exhibit #2)

Alec Hansen, League of Cities and Towns, supports SB 78 with amendments.

Opponents' Testimony:

NONE

Questions From Committee Members and Responses:

Senator Bartlett asked Mr. Funk about the hearing notices. Mr. Funk said that on line 25 the word "or" should be stricken and the word "and" should be inserted, so when the district court schedules a hearing, notice will go to both the county attorneys and city attorneys. At that point they can determine who will handle a particular appeal.

Senator Crippen asked Mr. Funk about an appeal. Mr. Funk said that with a criminal charge there is an automatic appeal for any conviction in the lower courts of Montana. The city attorneys office handles the appeal in the District Court all the way through to the Supreme Court. County attorneys feel they are required to represent the state because the statute does not have flexibility.

Senator Towe asked Mr. Funk and Mr. Hansen about striking "shall" and inserting "may." Mr. Funk said that the county and city attorney representatives are comfortable with the amendment, and feel that it will not be a problem as to who would be covering the hearings. Mr. Hansen said that the county and city attorneys would have to cooperate as to who would be covering a hearing.

Closing by Sponsor:

Senator Gage closed.

ROLL CALL

SENATE COMMITTEE

Judiciary*

DATE 1-19-93

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty	X		
Senator Brown	X		
Senator Crippen	X		
Senator Grosfield	X		
Senator Halligan	X		
Senator Harp			X
Senator Towe	X		
Senator Bartlett	X		
Senator Franklin	X		
Senator Blaylock			X
Senator Rye	X		

FC8

Attach to each day's minutes

Amendments to Senate Bill No. 78
First Reading Copy (WHITE)

For the Committee on Judiciary

Prepared by Valencia Lane (for John Connor)
January 8, 1993

1. Title, line 7.

Following: "ATTORNEY"

Strike: "SHALL"

Insert: "MAY"

2. Title, line 8.

Following: "REVOCATION"

Strike: "OCCURRED IN A CITY"

Insert: "RESULTED IN A CITY OR MUNICIPAL CHARGE"

3. Page 2, line 1.

Following: "revocation"

Strike: "occurred in a city"

Insert: "resulted in a charge filed in a city or municipal court"

4. Page 2, line 2.

Following: "or city attorney"

Strike: "shall"

Insert: "may"

2
1-19-93
SB 78

DATE 1/18

SENATE COMMITTEE ON JUDICIARY

BILLS BEING HEARD TODAY: SB 75- Gage SB 55- Towne
SB 129- Doherty SB 153- Doherty

Name	Representing	Bill No.	Check One	
			Support	Oppose
<u>Peter Zunk</u>	<u>MT Co. Attorneys Assoc</u>	<u>78</u>	☒	☐
<u>" "</u>	<u>Dept of Justice</u>	<u>153</u>	☒	☐
<u>DONNA HALL</u>	<u>MT TRANSIT</u>	<u>129</u>	☒	☐
<u>Cheryl Thares</u>	<u>MT SCHOOL BUS CONTRACTORS</u>	<u>129</u>	☒	☐
<u>Ted Tabaracci</u>	<u>Gov. Flr Public School</u>	<u>129</u>	☒	☐
<u>Darlene Cashman</u>	<u>Intl Transit</u>	<u>129</u>	☒	☐
<u>Wendy Mothershead</u>				
<u>Jarone Mothershead</u>				
<u>ROGER McCLERN</u>	<u>INDEPENDENT INS. AGENTS ASSOC. OF MT</u>	<u>153</u>	☒	☐
<u>DON BAKER</u>		<u>55</u>	☒	☐
<u>Jacqueline J. Senmark</u>	<u>Am. Ins. Assoc.</u>	<u>153</u>	☒	☐
<u>Jacqueline J. Senmark</u>	<u>Am. Ins. Assoc.</u>	<u>55</u>	☐	☒
<u>Donna Wortman-Obie</u>	<u>AAA Montana</u>	<u>153</u>	☒	☐
<u>Carl Harrison</u>	<u>MT County Treasurers</u>	<u>153</u>	☒	☐
<u>Don Waldron</u>	<u>MBEA</u>	<u>129</u>	☒	☐
<u>JOE ROBERTS</u>	<u>Ut. Cty. Atty. Assoc.</u>	<u>78</u>	☒	☐

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Senator Bill Yellowtail, on January 25, 1993,
at 10:08 a.m.

ROLL CALL

Members Present:

Sen. Bill Yellowtail, Chair (D)
Sen. Steve Doherty, Vice Chair (D)
Sen. Sue Bartlett (D)
Sen. Chet Blaylock (D)
Sen. Bob Brown (R)
Sen. Bruce Crippen (R)
Sen. Eve Franklin (D)
Sen. Lorents Grosfield (R)
Sen. Mike Halligan (D)
Sen. John Harp (R)
Sen. David Rye (R)
Sen. Tom Towe (D)

Members Excused: NONE

Members Absent: NONE

Staff Present: Valencia Lane, Legislative Council
Rebecca Court, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: NONE
Executive Action: SB 117
SB 37
SB 78
SB 55
SB 129
SB 153
SB 146

EXECUTIVE ACTION ON SENATE BILL 146

Motion: Senator Harp MOVED TO AMEND SB 146, page 55, line 4, 13
and 17, page 56 line 4. The amendment would strike the word

intimidated by an abuser, this would cause problems.

Vote: The MOTION TO AMEND SB 117 CARRIED UNANIMOUSLY.

Motion: Senator Halligan MOVED TO AMEND SB 117 on page 4, line 21 and 22 to strike the "minimum of 40 hours of certified mediation training".

Discussion: Senator Halligan said he would like the House to fix this area, he believed it was too strict. There are a lot of existing personnel in Courts now to help with mediation that do not have 40 hours of certified mediation training, and this language would prohibit them from continuing.

Chair Yellowtail repeated the motion and said this would strike lines 21 and 22 in their entirety and will assume the House will come back with something that will address that issue.

Senator Halligan said he recognized that rural communities need that access and rural Judges could look at this and see what is the most applicable to them. He pointed out that many did not have the time or the money to go take the training and there were many people who have the ability to the mediation, such as licensed counselors and people with a BA. He said this can be removed for now and if something needs to be added we can do so.

Vote: The MOTION TO AMEND SENATE BILL 117 CARRIED with Senator Crippen voting NO.

Motion: Senator Halligan MOVED SENATE BILL 117, AS AMENDED, DO PASS.

Discussion: Senator Towe said he had a question on the amendments and asked Senator Halligan to comment on section 4, page 3, where we are changing "may" to "shall". He asked why we were making it mandatory that a mediator's recommendation be submitted to Court.

Senator Halligan said when we look at both section 4 and section 5 we see that if there was an agreement if both parties go to Court and there was a recommendation, it should be available to the Court.

Vote: Motion to Do Pass SB 117 AS AMENDED, CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SENATE BILL 78

Discussion: Ms. Lane, Legislative Council Staff Person, handed out proposed amendments, (exhibit 2) and said they were requested by John Conner, Attorney General's Office. Originally the wording in this bill did not quite make sense and they requested these amendments. She explained the changes made by the amendments.

Senator Towe said this would allow the City Attorney to come in and perhaps the County Attorney. By striking the word "or" and inserting "and" they both get notice and can decide which should prosecute.

Motion/Vote: Senator Towe MOVED TO AMEND SB 78. The motion CARRIED UNANIMOUSLY.

Motion/Vote: Senator Halligan MOVED SB 78 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SENATE BILL 55

Discussion: Ms. Lane said there is an amendment that was requested by Rae Childs who stated that Senator Towe had okayed the amendment. Ms. Childs passed out the amendment. (Exhibit #3) She said this would change the penalty from a minimum of \$1,000 up to \$1,200.

Chair Yellowtail said this bill was closely related to Senate Bill 153 and the two went together.

Senator Brown asked if this amendment could be inserted in Senate Bill 153 and was told that was the intent of the amendment.

Motion: Senator Towe MOVED TO AMEND SENATE BILL 55. (Exhibit # 3).

Discussion: Senator Towe said Rae Childs asked him if he would present this amendment and she pointed out that we at least ought to make the penalty the same as the cost to get insurance and then there might be fewer people who would hesitate in getting the insurance. Senator Towe said the average insurance costs about \$1,000.

Vote: The motion to AMEND SENATE BILL 55 CARRIED UNANIMOUSLY.

Discussion: Senator Towe said he believed this bill should be discussed in conjunction with Senate Bill 153. The committee worked on SB 153 for a long time and had some good ideas. The concept of SB 153 is to take away the license plates. With the license plates gone it makes it easier for the police to pick up a car which is not registered.. The concept of SB 55 is to pick up the car itself. There is some feeling that something is needed here one way or another, and maybe the two can be fitted together. One preliminary matter which needs to be addressed is "who is the offender." SB 153 retains the notion, which is present law, that the offender is the person who is driving the car. Senator Towe said in Senate Bill 55 he changes that concept. The person who owns the car is responsible for getting insurance and SB 55 would make the offender the person who failed to get insurance, namely the owner of the car. The reason is, if you are driving someones car you do not go in and check on the

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 25, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 78 (first reading copy -- white), respectfully report that Senate Bill No. 78 be amended as follows and as so amended do pass.

Signed: Wm Yellowtail
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Title, line 7.

Following: "ATTORNEY"

Strike: "SHALL"

Insert: "MAY"

2. Title, line 8.

Following: "REVOCATION"

Strike: "OCCURRED IN A CITY"

Insert: "RESULTED IN A CITY OR MUNICIPAL CHARGE"

3. Page 1, line 25.

Strike: "or"

Insert: "and"

4. Page 2, line 1.

Following: "revocation"

Strike: "occurred in a city"

Insert: "resulted in a charge filed in a city or municipal court"

5. Page 2, line 2.

Following: "or city attorney"

Strike: "shall"

Insert: "may"

-END-

(2)

Amendments to Senate Bill No. 78
First Reading Copy (white)

For the Committee on Judiciary

Prepared by Valencia Lane
January 19, 1993

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 2
DATE 1-25-93
BILL NO. SB 78

1. Title, line 7.

Following: "ATTORNEY"

Strike: "SHALL"

Insert: "MAY"

2. Title, line 8.

Following: "REVOCATION"

Strike: "OCCURRED IN A CITY"

Insert: "RESULTED IN A CITY OR MUNICIPAL CHARGE"

3. Page 1, line 25.

Strike: "or"

Insert: "and"

4. Page 2, line 1.

Following: "revocation"

Strike: "occurred in a city"

Insert: "resulted in a charge filed in a city or municipal court"

5. Page 2, line 2.

Following: "or city attorney"

Strike: "shall"

Insert: "may"

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ -

SB0023	AKLESTAD, GARY	2/23	3/16	REVISE LAW ON REMOVAL OF CHILDREN FROM THE HOME IN CASES OF ABUSE OR NEGLECT	CONCUR AS AMENDED	3/26	VOTE: 12-6	3/27
SB0024	BLAYLOCK, CHET	1/12	1/21	CLARIFYING EMPLOYER-PAID INS. PREMIUMS ARE NOT MARITAL DISCRIMINATION	CONCUR	1/21	VOTE: 18-0	1/22
SB0029	TOWE, TOM	1/20	1/29	PENALTY FOR GANG RAPE	CONCUR AS AMENDED	2/3	VOTE: 14-4	2/05
SB0037	TOWE, TOM	1/30	3/02	CREATE OFFENSE OF STALKING AND PROVIDE FOR RESTRAINING ORDERS	CONCUR AS AMENDED	3/17	VOTE: 18-0	3/18
SB0042	HARP, JOHN	1/09	1/13	CLARIFY SERVICE OF PROCESS IN ACTIONS AGAINST THE STATE	CONCUR	3/9	VOTE: 18-0	1/14
SB0046	HALLIGAN, MIKE	2/02	3/09	UNIFORM PARTNERSHIP ACT	CONCUR	3/9	VOTE: 18-0	3/10
SB0051	BIANCHI, DON	3/01		APPLICANT FOR GAMBLING OPERATOR'S LICENSE MAY BE GRANTED TEMPORARY AUTHORITY		N/A	VOTE: BUSINESS & LABOR	
SB0064	DOHERTY, STEVE	1/18	1/22	EXEMPT ATTORNEYS' EMPLOYEES FROM PROCESS SERVER REGISTRATION REQUIREMENTS	TABLED ON	01/27	VOTE: 14-3	
SB0068	BLAYLOCK, CHET	2/01	3/09	REMOVE TERMINATION OF GOVERNMENTAL TORT LIABILITY LIMITS	CONCUR	3/16	VOTE: 17-1	3/12
SB0070	BROWN, BOB	2/01	3/10	COURT DISPOSITION OF TROUBLED YOUTH REQUIRING DEPT. FAM. SERV. TO SPEND \$	CONCUR	3/16	VOTE: 17-1	3/17
SB0078	GAGE, DEL	1/28	2/04	CITY ATTY. MAY REPRESENT STATE IN CERTAIN DUI LICENSE SUSPENSION HEARINGS	CONCUR AS AMENDED	3/26	VOTE: 13-5	3/27
SB0093	BECK, TOM	1/30	3/04	ELIMINATE HANGING AS FORM OF CAPITAL PUNISHMENT	CONCUR	3/4	VOTE: 10-8	3/04

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN RUSSELL FAGG, on February 4, 1993, at
8:00 a.m.

ROLL CALL

Members Present:

Rep. Russ Fagg, Chairman (R)
Rep. Randy Vogel, Vice Chairman (R)
Rep. Dave Brown, Vice Chairman (D)
Rep. Ellen Bergman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Bob Clark (R)
Rep. Duane Grimes (R)
Rep. Scott McCulloch (D)
Rep. Jim Rice (R)
Rep. Angela Russell (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Bill Tash (R)
Rep. Howard Toole (D)
Rep. Tim Whalen (D)
Rep. Karyl Winslow (R)

Members Excused: Rep. Karyl Winslow

Members Absent: None.

Staff Present: John MacMaster, Legislative Council
Beth Miksche, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 78, SB 129, SB 146, HB 396
Executive Action: SB 129, SB 146, HB 340, HB 255, HB 396

HEARING ON SB 78Opening Statement by Sponsor:

SEN. DELWYN GAGE, Senate District 5, Cut Bank, said this bill will allow a city attorney to represent the state in the higher court on appeal if a driver's license has been suspended or revoked following a DUI charge if the incident leading to the suspension or revocation resulted in a city or municipal charge. Currently, the case goes to the county attorney which requires the county attorney to collect all the information/evidence on that case.

Proponents' Testimony:

John Conner, Asst. Attorney General appearing on behalf of Montana County Attorney's Association (MCAA), stated that this bill was requested on behalf of the MCAA because the county attorneys think there is a disparity in the law with respect to the relative responsibilities of the county attorney opposed to the city attorney.

Mr. Conner said he had consulted with the county attorneys in his jurisdiction who said that this bill is fine; he will work with the city attorney on it.

Opponents' Testimony:

David Hull, City Attorney, City of Helena, indicated he may not oppose this bill if the language that SEN. GAGE discussed is, in fact, the intent of the bill. Mr. Hull discussed several problems he has with the bill, one being how it is currently written. He insisted that a state license is a civil matter, and it is the state's obligation to revoke a license if a person chooses to do so. This has nothing to do with the criminal prosecution of the DUI. If the state wants to put the burden on the city to handle these cases, then the state should pay the city attorney to do that.

Questions From Committee Members and Responses:

REP. RANDY VOGEL asked Mr. Conner how the city or county is going to handle this situation. Mr. Conner answered that DUIs are being prosecuted by the city; if the case arises from the city, the city attorney's office ought to handle any appeals that arise. Mr. Conner believes that if a DUI is a city case, it should be a city charge; if it is a county case, it should be a county charge. If the city doesn't have the resources, then the structure of this bill, as it's designed as a mandate, then the county should handle it. It does pose a problem when there are

two different entities handling the same defendant in different forms.

REP. VOGEL asked Mr. Conner's opinion as to whether it may be necessary to put language in the bill whereby if it is a city case, the city attorney does handle some county cases, unless certain circumstances would not permit that. Mr. Conner said the bill was patterned that way when originally drafted. One of the main problems with this bill is that the smaller communities are not equipped to handle the cases, and the county attorneys didn't contemplate that when they drafted the bill. The bill needs to be drafted so that smaller communities will handle it if they are equipped to do so. The problem exists in some of the larger communities where there are more of those cases being handled.

CHAIRMAN FAGG said he believes Mr. Conner is correct; that if the city is going to prosecute the DUI, it makes sense that the city takes this civil proceeding onto its shoulders. CHAIRMAN FAGG asked Mr. Hull if the person who prosecutes DUIs in his office take on this case in district court. Mr. Hull concurred, but said it would be more of a burden to the city attorney or the deputy city attorney to handle a state, civil license mandate. CHAIRMAN FAGG believes it makes sense to have the city attorney's office, who is going to prosecute the DUI and will have to become familiar with the case, to do this as opposed to the county attorney's office which won't have to prosecute the DUI. This, basically, makes two people become familiar with the case. Mr. Hull doesn't believe this bill guarantees that's not going to be a problem.

REP. BOB CLARK referred to the cost of a DUI, and asked Mr. Hull if the city gets any of the fees from a DUI. Mr. Hull said that when the case is prosecuted by the city, the city gets 13 percent at the time for the criminal act.

Closing by Sponsor:

SEN. GAGE said he understands that city attorneys do handle criminal cases that arise in the city, and it can't cost the city that much more money. He said this is a common sense bill.

HEARING ON SB 129

Opening Statement by Sponsor:

SEN. STEVE DOHERTY, Senate District 20, Great Falls, explained that he is bringing this bill forward because there have been problems in Great Falls with cars zooming around school buses; the school bus drivers report this, but the county attorney's office has not been able to prosecute that individual for violating school bus regulations. On page 3, subsection (6) SB 129 simply requires the identity of the driver in order to have a

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

February 4, '93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	✓		
Rep. Randy Vogel, Vice-Chair	✓		
Rep. Dave Brown, Vice-Chair	✓		
Rep. Jodi Bird	✓		
Rep. Ellen Bergman	✓		
Rep. Vivian Brooke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes	✓		
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell	✓		
Rep. Tim Savles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow			✓
Rep. Diana Wyatt	✓		

HR:1993

wp.rollcall.man

CS-09

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

call to Order: By CHAIRMAN RUSSELL FAGG, on March 3, 1993, at
9:00 a.m.

ROLL CALL

Members Present:

Rep. Russ Fagg, Chairman (R)
Rep. Randy Vogel, Vice Chairman (R)
Rep. Dave Brown, Vice Chairman (D)
Rep. Ellen Bergman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Bob Clark (R)
Rep. Duane Grimes (R)
Rep. Scott McCulloch (D)
Rep. Jim Rice (R)
Rep. Angela Russell (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Bill Tash (R)
Rep. Howard Toole (D)
Rep. Tim Whalen (D)
Rep. Karyl Winslow (R)
Rep. Diana Wyatt (D)

Members Excused: None

Members Absent: None

Staff Present: John MacMaster, Legislative Council
Beth Miksche, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 109, SB 125, SB 108
Executive Action: SB 109, SB 140, SB 108, SB 78

HEARING ON SB 109

Opening Statement by Sponsor:

SEN. STEVE DOHERTY, Senate District 20, Great Falls, said this
bill is an act expanding the definition of "serious bodily

Further discussion on the bill as amended.

Motion: REP. BIRD moved to amend page 4, line 8 by striking "associated with records" and after the word "costs" insert: "of supplying the costs."

Discussion:

REP. WHALEN supported the amendment, saying it prevents these agencies from passing on processing fees; if, in fact, there are fees involved.

Mr. MacMaster said this bill was written by DOJ; he thought the language addressing costs was vague and suggested adding the costs of supplying copies. DOJ wants to add "costs associated with records requested." The costs of buying photocopiers and storing records was also added. They will not charge per page or per copy. DOJ will get back whatever it costs to make the store records.

Vote: REP. BIRD'S amendment carried 17-1 with REP. BROWN voting no.

Motion/Vote: CHAIRMAN FAGG MOVED SB 108 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON SB 78

Motion: REP. CLARK MOVED SB 78 BE CONCURRED IN.

Discussion:

Because it had been a long time since the committee discussed this bill, CHAIRMAN FAGG explained the bill to the committee.

REP. BROWN read the fiscal note which says that no cost will be incurred to the state, and all costs would shift to the local government.

REP. VOGEL asked MR. MACMASTER to clarify "may" in the bill. Mr. MacMaster said he believes there is a drafting problem on page 2, line 3. It says the county or city attorney "may" represent the state. This bill should be clarified as such: "and the county attorney shall represent the state, except that the city attorney shall represent the state if the file is charged in the city at municipal court, and the county declines to represents the state."

Motion: REP. BROWN MOVED A SUBSTITUTE MOTION TO TABLE SB 78.

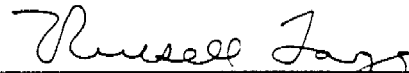
Discussion:

CHAIRMAN FAGG said he believes the bill would be acceptable if someone wants to make the changes along the line that if it is a city court charge, then the city has to represent the state; if it is a county charge, then the county has to represent the state. He believes "may" is acceptable because, in most cases, city attorney and county attorney offices work well together, and he doesn't think there's going to be any problem.

Vote: SB 78 BE TABLED. Motion carried 13-5. Those voting not to table the bill were CHAIRMAN FAGG, REPS. VOGEL, BERGMAN, CLARK and GRIMES.

ADJOURNMENT

Adjournment: 11:00 a.m.



REP. RUSSELL FAGG, Chairman



BETH MIKSCHKE, Secretary

RF/bcm

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 3-3-93 BILL NO. SB 78 NUMBER 18MOTION: SB 78 Be Tabled 13-5

NAME	AYE	NO
Rep. Russ Fagg, Chairman		✓
Rep. Randy Vogel, Vice-Chair		✓
Rep. Dave Brown, Vice-Chair	✓	
Rep. Jodi Bird	✓	
Rep. Ellen Bergman		✓
Rep. Vivian Brooke	✓	
Rep. Bob Clark		✓
Rep. Duane Grimes		✓
Rep. Scott McCulloch	✓	
Rep. Jim Rice	✓	
Rep. Angela Russell	✓	
Rep. Tim Sayles	✓	
Rep. Liz Smith	✓	
Rep. Bill Tash	✓	
Rep. Howard Toole	✓	
Rep. Tim Whalen	✓	
Rep. Karyl Winslow	✓	
Rep. Diana Wyatt	✓	
	13	5

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN RUSSELL FAGG, on March 26, 1993, at 7:00 a.m.

ROLL CALL

Members Present:

Rep. Russ Fagg, Chairman (R)
Rep. Randy Vogel, Vice Chairman (R)
Rep. Ellen Bergman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Dave Brown (D)
Rep. Bob Clark (R)
Rep. Duane Grimes (R)
Rep. Scott McCulloch (D)
Rep. Jim Rice (R)
Rep. Angela Russell (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Bill Tash (R)
Rep. Howard Toole (D)
Rep. Tim Whalen (D)
Rep. Karyl Winslow (R)
Rep. Diana Wyatt (D)

Members Excused: None

Members Absent: None

Staff Present: John MacMaster, Legislative Council
Beth Miksche, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 119
Executive Action: SB 9, SB 23, SB 323, SB 119,
SB 409, SB 351, SB 78

HEARING ON SB 119

Opening Statement by Sponsor:

SEN. MIKE HALLIGAN, Senate District 29, Missoula, stated that SB 119 is an act generally revising the law concerning estates, wills, and donative transfers. SEN. HALLIGAN distributed

Mr. MacMaster said it is much the same as the attorney/client privilege. He said throughout this bill there are numerous provisions that say the DHES data and information are confidential, which means they are privileged. SEN. HOCKETT'S amendments say they can't discover or introduce this as evidence, and to Mr. MacMaster, this clearly violates the "Right to Know" provision of the Montana Constitution.

Motion/Vote: REP. SAYLES MADE A SUBSTITUTE MOTION SB 409 BE TABLED. Motion carried 15-3 with CHAIRMAN FAGG, REPS. BROWN and VOGEL voting no.

EXECUTIVE ACTION ON SB 351

Motion/Vote: CHAIRMAN FAGG MOVED SB 351 BE TABLED. Motion carried 14-4 with REPS. BROOKE, BROWN, MCCULLOCH, and SAYLES voting no.

EXECUTIVE ACTION ON SB 78

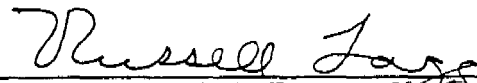
Motion: CHAIRMAN FAGG MOVED SB 78 BE CONCURRED IN.

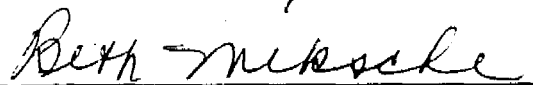
Motion/Vote: CHAIRMAN FAGG moved the amendments on page 2, line 5. EXHIBIT 11 Motion carried 12-6 with REPS. BROWN, BROOKE, GRIMES, SAYLES, SMITH, and WYATT voting no.

Vote: SB 78 BE CONCURRED IN AS AMENDED. Motion carried 13-5 with REPS. BROWN, WYATT, MCCULLOCH, BROOKE AND SAYLES voting no.

ADJOURNMENT

Adjournment: 12:00 p.m.


REP. RUSSELL FAGG, Chairman


BETH MIKSCHKE, Secretary

HOUSE STANDING COMMITTEE REPORT

March 27, 1993

Page 1. of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 78 (third reading copy -- blue) be concurred in as amended.

Signed: Russ C. Fagg

Russ Fagg, Chair

And, that such amendments read:

Carried by: Rep. Fagg

1. Page 2, line 5.

Following: "~~the~~."

Insert: "If the county attorney and the city attorney cannot agree on who will represent the state, the county attorney shall represent the state."

-END-

Committee Vote:
Yes 13, No 5.

690949SC.Hss